

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
Plaintiff,

vs.

Case No.07CR3405-W07MJ8976

Mario Raymond Fernandez (1),
Ernesto Flores-Blanco (2),

Defendants.

VIDEOTAPED DEPOSITION OF ALEJANDRO PORTILLO-MENDOZA

Taken at San Diego, California

Friday, May 23, 2008

Reported by Heidi A. Simpson - CSR
Certificate No. 13052



Alejandro Portillo-Mendoza - 5/23/2008

1 A Yes.

2 Q Do you have any questions before we begin?

3 A No.

4 Q Okay. What's your date of birth, sir?

5 A November 25 of '83.

6 Q Where were you born?

7 A In Hidalgo.

8 Q Is Hidalgo in the Republic of Mexico?

9 A Yes.

10 Q Have you always lived in the Republic of Mexico?

11 A Yes.

12 Q Are you a citizen of the Republic of Mexico?

13 A Yes.

14 Q Where do your parents live?

15 A In Hidalgo.

16 Q Are your parents citizens of the Republic of

17 Mexico?

18 A Yes.

19 Q How far did you go in school?

20 A Up to sixth.

21 Q What's your occupation?

22 A To -- reconstruction.

23 Q Construction of houses or buildings?

24 A Houses.

25 Q Are you a laborer?

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1 A Yes.

2 Q In December 2007, did you climb over the border
3 fence from Mexico into the United States?

4 A Yes.

5 Q And you understand that, and presumably the other
6 lawyers are going to ask you questions about that today as
7 well.

8 A Yes.

9 Q Did you personally make arrangements with any
10 smugglers to bring you into the United States from Mexico?

11 A No.

12 Q Did someone else make arrangements for you to be
13 smuggled from the United States into Mexico?

14 A Yes.

15 Q Who was that person?

16 A Adrian.

17 Q Was it your understanding, Mr. Portillo, that the
18 smugglers would be paid to bring you into the United
19 States from Mexico?

20 MS. BAIZ: Objection. Calls for speculation.

21 THE WITNESS: Could you repeat the question.

22 BY MR. LESHNER:

23 Q Sure. Was it your understanding that the
24 smugglers would be paid a fee to bring you into the United
25 States from Mexico?

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1 MS. BAIZ: Objection. Lacks personal knowledge.

2 THE WITNESS: Yes.

3 BY MR. LESHNER:

4 Q Was Adrian going to pay a smuggling fee for you
5 to be brought into the United States?

6 A Yes.

7 Q Were you going to repay Adrian for your smuggling
8 fee?

9 A Yes.

10 Q How were you going to repay him?

11 A Working.

12 Q Did smugglers ever tell you how much the
13 smuggling fee would be?

14 A No.

15 Q I'd like to talk to you a little bit about the
16 events of December 2007. At some point in December 2007,
17 did you leave your home in Hidalgo to travel to the United
18 States?

19 A Yes.

20 Q Where did you go when you left Hidalgo?

21 A From the airport.

22 Q Did you take an airplane from that airport?

23 A To Mexicali.

24 Q You took an airplane from Hidalgo to Mexicali?

25 A Yes.

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1 Q When you arrived in Mexicali where did you go?
2 A To a hotel.
3 Q Did you call Adrian when you arrived in Mexicali?
4 A Yes.
5 Q What did he tell you?
6 A That a person was going to come for me.
7 Q Did a person come to get you?
8 A Yes.
9 Q Where did he come to get you?
10 A At the hotel.
11 Q Where if anywhere did he take you?
12 A To the fence.
13 Q Is that the fence that separates Mexico from the
14 United States on the border?
15 A Yes.
16 Q What did you do when you reached the border
17 fence?
18 A I stayed in between some -- I stayed in between
19 some trees.
20 Q How long did you stay in between the trees?
21 A More or less some seconds -- well, some minutes
22 there.
23 Q What time of day was this?
24 A I don't remember.
25 Q Okay. Was it in the morning or the afternoon or

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1 States in the morning?

2 A Yes.

3 Q Okay. Did you cross into Mexico in the morning
4 before or after you crossed at night?

5 MS. BAIZ: Excuse me. Did you ask him if he
6 crossed into the United States, then you asked him if he
7 crossed into Mexico?

8 MR. LESHNER: I didn't intend to. I'm sorry.
9 Thank you for clearing that up. Let me rephrase the
10 question in case I phrased it incorrectly.

11 BY MR. LESHNER:

12 Q You said you crossed from Mexico into the United
13 States one time in the morning.

14 A Yes.

15 Q Let's talk about that crossing. Before you
16 crossed in the morning, did anyone come to get you at the
17 hotel in Mexicali?

18 A Yes.

19 Q Where did that person -- was that person a man or
20 a woman?

21 A He was a man.

22 Q Where did you go with that man, if anywhere?

23 A A house.

24 Q And what did you do when you got to that house?

25 A We went into a room.

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1 Q Okay. And did you wait in the room?

2 A Yes.

3 Q Did you spend the night in that room?

4 A Yes.

5 MS. BAIZ: Objection. Leading.

6 BY MR. LESHNER:

7 Q What happened the next morning?

8 A We tried to hop over.

9 Q Who was we?

10 A There was another guy -- there was two of us that
11 tried to cross over.

12 Q Was that in the morning?

13 A Yes.

14 Q How did you cross from Mexico into the United
15 States that morning?

16 A The question again.

17 Q How did you cross from Mexico into the United
18 States that morning?

19 A Over the fence, the same way.

20 Q When you crossed over the fence that morning what
21 happened?

22 A Well, we hid where they indicated to us and then
23 immigration found us.

24 Q Did -- after immigration found you, did they
25 return you to Mexico?

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1 A Yes.

2 Q Was that the same day that you had crossed in the
3 morning?

4 MS. BAIZ: Objection. Ambiguous as to time.

5 THE WITNESS: Yes.

6 BY MR. LESHNER:

7 Q Where did you go after immigration returned you
8 to Mexico?

9 A To the hotel.

10 Q And where did you go when you got to the hotel?

11 A To my apartment.

12 Q To your room in the hotel?

13 A Yes.

14 Q And did you call Adrian when you got back to the
15 hotel?

16 A Yes.

17 Q And what did you tell him?

18 A That immigration had got me, they had sent me
19 back to Mexico.

20 Q Did Adrian tell you anything?

21 A Yes, that a person was going to come for me.

22 Q After you spoke with Adrian did you leave your
23 room later on?

24 A Yes.

25 Q Where did you go?

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1 A To eat dinner.

2 Q Did you eat in the restaurant -- I'm sorry, let
3 me rephrase the question.

4 Did you go to a restaurant?

5 A Yes.

6 Q Was that restaurant in the hotel where you were
7 staying?

8 A Yes.

9 Q Did you eat dinner at that restaurant?

10 A Yes.

11 Q Was anybody else eating dinner in the restaurant
12 when you were there?

13 A No.

14 Q At any point after you ate dinner, did you in
15 fact meet someone near the restaurant?

16 MS. BAIZ: Objection. Leading.

17 THE WITNESS: No.

18 BY MR. LESHNER:

19 Q What did you do after you ate dinner in the
20 restaurant?

21 A I went to my room.

22 Q And then what did you do after you went to your
23 room?

24 A I ran into that person and he asked me if I
25 wanted to hop over.

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1 Q Did he say anything to you to the effect of
2 someone on the other side is looking for you?

3 A No.

4 Q Did you go anywhere with this person?

5 A No, just to the fence.

6 Q Was this a man or a woman?

7 A At night or the --

8 Q Yes, the person -- the person who took you to the
9 fence at night.

10 A He was a man.

11 Q How did you and the man get from the hotel to the
12 fence?

13 A Walking.

14 Q Do you remember about how long it took you to
15 walk from the hotel to the fence?

16 A No.

17 Q Did you talk to the man while you were walking
18 with him to the fence?

19 A No.

20 Q Was he talking on the phone?

21 A You could see that he was moving his hands, but I
22 couldn't hear what he was saying.

23 Q When you got to the border with the man was there
24 a fence?

25 A Yes.

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1 Q When you got to the border with the man did he
2 talk on the phone?

3 A Yes.

4 Q Could you hear what he was saying?

5 A That he not be let down.

6 Q Was he saying that into the telephone?

7 A Yes.

8 Q Did the man give you any instructions when you
9 got to the border?

10 MS. BAIZ: Objection. Leading.

11 THE WITNESS: That a person was going to wait for
12 me inside.

13 BY MR. LESHNER:

14 Q When you say "inside," do you mean on the other
15 side of the fence?

16 A Yes.

17 Q Did the man tell you to get on his shoulders?

18 A Yes.

19 Q Did you do that?

20 A Yes.

21 Q What did the man -- let me ask you this: Did the
22 man say anything to you while you were on his shoulders?

23 A Did I see the other person.

24 Q Was he referring to another person on the other
25 side of the fence?

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1 MS. BAIZ: Objection. Leading.

2 THE WITNESS: Yes.

3 BY MR. LESHNER:

4 Q At that moment could you see anyone on the other
5 side of the fence in the United States?

6 A No.

7 Q Did the smuggler say anything into the phone at
8 that moment when you couldn't see anything?

9 A Yes.

10 Q What did he say?

11 A That he should move so that I could see him.

12 MS. BAIZ: Objection. Hearsay.

13 BY MR. LESHNER:

14 Q After the man told the person to move, did you
15 see any movement?

16 A Yes.

17 Q Could you tell whether there was a person on the
18 other side of the fence from that movement?

19 A Yes.

20 Q Do you remember approximately what time during
21 the night this was?

22 A No.

23 Q Was it dark outside?

24 A Yes.

25 Q Could you see the face of the person on the other

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1 side of the fence that you saw move?

2 A No.

3 Q Okay. Could you tell what kind of shirt the
4 person was wearing that moved?

5 A Dark.

6 Q Could you tell what type of shirt was it?
7 Whether it was a dress shirt or sweatshirt or a T-shirt?

8 A A sweatshirt.

9 Q Did the sweatshirt have a hood?

10 A Yes.

11 Q Could you tell what color pants the person was
12 wearing?

13 A I didn't see it.

14 Q Did the smuggler -- let me rephrase the question.
15 When you were on the man's shoulders, did he tell
16 you to do anything when you saw a person move on the
17 United States side of the fence?

18 A That I hop over.

19 Q Did he tell you where you should go?

20 A In the direction where he was.

21 Q When you say "he," who do you mean?

22 A The one who was on the north side.

23 Q Did you climb the fence?

24 A Yes.

25 Q Did you -- what happened when you got to the top

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1 of the fence?

2 A I jumped over and let myself fall down, run to
3 where the person was.

4 Q Did you fall down the other side of the fence?

5 A Yes -- or I mean I jumped.

6 Q Were you nervous?

7 A Yes.

8 Q Were you scared?

9 MS. BAIZ: Objection. Relevance.

10 THE WITNESS: Yes.

11 BY MR. LESHNER:

12 Q Where did you go after you climbed over the
13 fence?

14 A I ran in the direction where the person was.

15 Q Was anyone there?

16 A Huh-uh, no.

17 Q What happened then?

18 A I continued running down that stretch to see if I
19 could find someone.

20 Q Did you find anyone there?

21 A No.

22 Q Did you hide?

23 A Yes.

24 Q What happened after you hid?

25 A The immigration agents showed up and found me.

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1 Q When you entered the United States from Mexico by
2 climbing over the fence that night, did you have
3 permission from the United States government to enter into
4 the United States?

5 A No.

6 Q Did you enter the United States illegally?

7 A Yes.

8 Q Mr. Portillo, I just have a couple more
9 questions. Do you see the gentleman sitting next to the
10 right of Ms. Baiz with the glasses?

11 Do you see him as we sit here right now?

12 A Yes.

13 Q Do you recognize him as someone you have seen
14 before?

15 A No.

16 Q Are you related to him?

17 A No.

18 Q As far as you are aware, have you ever spoken
19 with him?

20 A No.

21 Q Okay. Would you then look at the gentleman
22 seated at the end of the table with the shorter hair, do
23 you see him right now?

24 A Excuse me?

25 Q Do you see him right now?

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1 MR. GILMORE: And lack of foundation.

2 THE WITNESS: No.

3 MS. MITCHELL: I think that's it.

4 MR. LESHNER: I have probably just a couple more
5 questions.

6

7

FURTHER EXAMINATION

8 BY MR. LESHNER:

9 Q We've all asked you a lot of questions about the
10 two times that you crossed. Was one of these times that
11 you crossed in the morning?

12 A Yes.

13 Q And was the other time that you crossed at night?

14 A Yes.

15 Q I'm going to ask you a couple of questions about
16 the nighttime crossing, the second crossing.

17 Do you remember talking about when you climbed on
18 the smugglers' shoulders? I'll rephrase the question.

19 When you crossed at night, before you crossed had
20 the smuggler told you to get on his shoulders?

21 A Yes.

22 Q And when you were on the smugglers' shoulders,
23 were there any other smugglers with you on the Mexican
24 side of the fence?

25 A Yes.

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1 Q Was it one other smuggler?

2 A Yes.

3 Q And when you saw the movement of the person --
4 let me rephrase the question.

5 When you saw the person moving on the other side
6 of the fence, could you see that person's face?

7 A No.

8 MS. MITCHELL: Just a point of clarification.
9 The second time you came in, you stood on both smugglers
10 to come into the United States?

11 MR. LESHNER: Objection. It's been asked and
12 answered.

13 THE WITNESS: No.

14 MS. MITCHELL: Okay. You just stood -- you stood
15 on one smuggler to come in?

16 THE WITNESS: Yes.

17 MR. GILMORE: Was that in addition to standing on
18 the shoulders on the other smugglers, so you were three
19 tall. I thought we were almost done.

20 MR. LESHNER: We are.

21 Okay, Mr. Portillo, we are just about finished.
22 I just have a couple of documents to give you and then
23 we'll be done for the morning.

24 The first document that I'm going to hand to your
25 lawyer to give to you is a letter signed by me which